

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 Physician Assistants

SPONSOR(S): Bogdanoff

TIED BILLS: **IDEN./SIM. BILLS:** SB 1106

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Quality</u>	<u>9 Y, 0 N</u>	<u>Owen</u>	<u>Lowell</u>
2) <u>Healthcare Council</u>	<u>15 Y, 0 N</u>	<u>Owen</u>	<u>Gormley</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 989 deletes antipsychotics and parenteral preparations from the formulary of drugs that a physician assistant is prohibited from prescribing.

The bill appears to have an insignificant negative fiscal impact to the Medical Quality Assurance Trust Fund (see fiscal comments).

The bill is effective July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Licensure of Physician Assistants

Chapter 458, F.S., governs the practice of medicine in Florida. Chapter 459, F.S., similarly governs the practice of osteopathic medicine. Physician assistants (PAs) are licensed under ch. 458 and ch. 459, F.S.,¹ are authorized to provide health care services under the supervision of a medical physician or osteopathic physician.

Licenses are renewed biennially and each licensed PA is required to complete 100 hours of continuing medical education biennially or hold a current certificate issued by the National Commission on Certification of Physician Assistants.

Once employed, the PA must notify the department in writing within 30 days of employment or after changes in the supervising physician. The Boards of Medicine and Osteopathic Medicine have the power to impose penalties upon a PA if the PA or the supervising physician is found guilty of or is being investigated for any act that constitutes a violation of Chapters 456, 458, or 459.²

According to the department's 2007 Medical Quality Assurance Annual Report, there are 4,476 active physician assistants licensed in Florida.

Supervising Physician

For purposes of the regulation of PAs, "supervision" is defined in ss. 458.347 and 459.022, F.S., to mean responsible supervision and control. Except for cases of emergency, supervision requires the easy availability or physical presence of the licensed physician for consultation and direction of the actions of the PA. "Easy availability" is defined to include the ability to communicate by way of telecommunication. The Board of Medicine and the Board of Osteopathic have adopted, pursuant to s. 458.347(4)(f)4., F.S., identical administrative rules that define "direct supervision" to mean the presence of the supervising physician on the premises so that the supervising physician is immediately available to the PA when needed.³ "Indirect supervision" is defined under the rules to mean the easy availability of the supervising physician to the PA, which includes the availability to communicate by telecommunications. The supervising physician must also be within reasonable physical proximity.⁴

The physician or group of physicians supervising a PA must be qualified in the medical areas in which the PA is to perform and must be individually or collectively responsible and liable for the performance and the acts and omissions of the PA. A physician may not supervise more than four PAs at any one time.

A supervising physician is authorized to delegate to a PA that he or she supervises the authority to perform medical acts of diagnosis, treatment, and prescription. A supervising physician may delegate

¹ Sections 458.347 and 459.022, F.S.

² Sections 458.347(7)(g) and 459.022(7)(f), F.S.

³ See Rules 64B8-30.001(3) and 64B15-6.001(4), Florida Administrative Code.

⁴ See Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.

to a fully licensed PA the authority to prescribe any medication used in the supervising physician's practice unless the medication is listed on the formulary established under s. 458.347(4)(f), F.S.

Physicians Assistant Formulary

The PA formulary is a list of medications a PA is not allowed to prescribe and is developed by a five-member council, the Council on Physician Assistants (council). The council is comprised of 3 medical doctors appointed by the Board of Medicine, 1 osteopathic doctor appointed by the Board of Osteopathic Medicine, and 1 PA appointed by the State Surgeon General. The council recommends the formulary to the Board of Medicine and the Board of Osteopathic Medicine; the boards then pass the recommended formulary into administrative rule. The formulary of medications a PA is not allowed to prescribe must include controlled substances, antipsychotics, general anesthetics, radiographic contrast materials, and all parenteral preparations,⁵ except insulin and epinephrine.

A PA may only prescribe or dispense medication under the following circumstances:⁶

- The PA must clearly identify to the patient that he or she is a PA and that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the PA;
- The supervising physician must notify the department of his or her intent to delegate the authority to dispense to a PA;
- The PA must file evidence with the department that he or she has completed a continuing education course of at least three classroom hours in prescriptive practice;
- The PA must file evidence with the department that he or she has a minimum of three months of clinical experience in the specialty area of the supervising physician;
- The PA must file a signed affidavit with the department that he or she has completed a minimum of ten continuing medical education hours in the specialty practice in which the PA has prescriptive privileges with each licensure renewal;
- The department must issue a license and a prescriber number to the PA granting authority for the prescribing of medicinal drugs;
- The prescription must be written in a format that complies with chapter 499 and must contain the supervising physician's name, address, and telephone number, in addition to the PA's prescriber number; and
- The PA must note the prescription or dispensing of medication in the appropriate patient medical record, and the supervising physician must review and sign each notation.

Effect of Proposed Changes

The bill deletes antipsychotics and parenteral preparations from the formulary of drugs that a physician assistant is prohibited from prescribing. There are several drugs included under each of class.

For example, a PA may be allowed to prescribe injectables such as:

- Forteo, which may be used to treat symptoms of severe osteoporosis.
- Emitrex, which may be used to treat migraine headaches.
- Lovenox, which may be used to prevent blood clots.

Also, a PA may be allowed to prescribe antipsychotics such as:

- Saraquel, which may be used to treat Alzheimer patients.
- Abilify, which may be used to treat bi-polar disorder.
- Other non-controlled substances such as Haldol, Resperdol, Thorazine, and Lithium.

The bill grants authority to the PA Council to change the PA formulary; it does not mandate any change to the formulary.

⁵ "Parenteral preparations" are sterile preparations intended for administration by injection, infusion or implantation.

⁶ S. 458.347(4)(e), F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 458.347, F.S., revising the requirements for the physician assistant formulary.

Section 2: Provides an effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A patient would be able to receive certain prescriptions from PAs, in lieu of a physician, who may bill at a lower rate.

D. FISCAL COMMENTS:

Whenever the formulary is revised, the department will incur costs to mail a copy of the amended formulary to each PA and pharmacy licensed by the state. According to the 2007 Medical Quality Assurance Annual Report, there are 4,828 licensed PAs and 7,628 licensed Pharmacy Establishments in Florida. Therefore, 12,456 notices would have to be mailed. The cost would be at least \$5,107 (@\$0.41 each for postage), but may be higher depending on the weight. However, the fiscal impact to the Medical Quality Assurance Trust Fund would be insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The department appears to have sufficient rule-making authority to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to the department, the PA Council met on January 31, 2008 and discussed HB 989. At that meeting, the PA Council as well as the Board of Medicine voted to support the provisions of the bill.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES